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Attorneys for Plaintiff Elizabeth Marcuse

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ELIZABETH MARCUSE,

Plaintiff,

v.

CASE NO.: 2:17-cv-02683-JCM-VCF

**STIPULATION AND JOINT
MOTION FOR STAY**

LINCOLN NATIONAL LIFE INSURANCE
COMPANY AND GROUP LONG TERM
DISABILITY INSURANCE FOR
EMPLOYEES OF ACADIA
HEALTHCARE COMPANY, INC.,

Defendants.

Come now the parties and, after conference of counsel, jointly request that the Court stay this matter. In support hereof, the parties show the Court as follows:

1. This is a suit for long term disability (“LTD”) benefits under an ERISA-governed employee benefit plan pursuant to 29 U.S.C. §1132(a)(1)(B).

2. During the pendency of this action, the parties have discussed options for potential settlement. However, counsel for the parties has come to the conclusion that this

1 matter is currently impossible to resolve pending the result of plaintiff's Social Security
2 Disability Insurance ("SSDI") appeal.

3 3. Under the terms of Ms. Marcuse's policy, if she qualifies under the definition
4 of disability under the terms of the policy, she is entitled to receive a percentage of her
5 monthly salary for as long as she remains eligible under the policy.

6 4. The policy also allows for that benefit amount to be reduced upon plaintiff's
7 receipt of any other disability-related income; limited to but not including Social Security
8 Disability benefits, as well as Social Security Disability Dependent benefits (a 50% "bonus"
9 paid to individuals eligible for SSDI who have children under 18, or disabled adult children).

10 5. Counsel for the parties agree that if Ms. Marcuse receives SSDI, the amount
11 of benefits in dispute reflects a fraction of the value of the total benefits in dispute if she were
12 to not receive SSDI benefits.

13 6. The parties cannot resolve this matter without knowing how much money is
14 actually in dispute, considering the extreme discrepancy between the two possible valuations.

15 7. Specifically, Defendants will not consider the possibility of engaging in
16 settlement talks based on the higher evaluation, as its exposure could constitute only a
17 fraction of that amount, and it has no reason to resolve the dispute if even a negative outcome
18 during litigation would not cost Defendant as much as a potential settlement would in light of
19 the higher valuation.

20 8. Conversely, Plaintiff cannot consider settling based on the lower valuation, as
21 if she remains permanently disabled and is not awarded SSDI, but settles based on a
22 valuation which assumes SSDI, she will waive away her rights to hundreds of thousands of
23 dollars in potential LTD benefits, and be left without any source of income for the remainder
24 of her life. Plaintiff cannot risk being placed in this devastating financial position.

25 9. Counsel for the parties have agreed to postpone Defendant's discovery
26 response due dates pending resolution of the SSDI matter, and have not yet lodged the joint

1 administrative record.

2 10. Given the unpredictable timeline in which the final SSDI determination will
3 be made, the parties request a temporary stay of 180 days pending the decision. If the
4 decision is issued and the parties are able to resolve the matter within 180 days, the parties
5 will submit a joint request for dismissal of this action.

6 DATED: April 8, 2019 LAW OFFICE OF JULIE A. MERSCH

7
8 By: /s/ Julie A. Mersch
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15 DATED: April 8, 2019 LAW OFFICES OF IWANA RADEMAEKERS, P.C.

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19 Dallas, TX 75254
20 *Attorneys for Defendant LINCOLN*

21 **IT IS SO ORDERED:**

22 Dated this 8th April
23 day of _____, 2019.

24 **IT IS HEREBY ORDERED**
that a status hearing is
25 scheduled for 1:00 PM,
November 1, 2019, in
Courtroom 3D.

26

UNITED STATES MAGISTRATE JUDGE